

In the Court of Appeals of the State of Alaska

Cim J. Blair,

Appellant,

v.

State of Alaska,

Appellee.

Court of Appeals No. **A-13186**

Order

Request for Representational Hearing

Date of Order: **9/23/2021**

Trial Court Case No. **3HO-16-00188CR**

The Appellant, Cim Joel Blair, is currently represented at public expense by attorney Michael Horowitz, under contract with the Public Defender Agency. Blair recently filed a pro se request asking this Court to remand this case for a representation hearing. Blair explains that he believes that his current attorney, Michael Horowitz, may have a disqualifying conflict of interest.

Blair's case is fully briefed and is awaiting oral argument (which is currently scheduled for November 2, 2021). In his pleading, Blair acknowledges that he has no dispute with Horowitz; Blair states that Horowitz has performed professionally and has adequately communicated with Blair. But Blair asserts that an attorney from the Public Defender Agency, Deputy Public Defender Douglas Moody, "has made [Blair] aware of a pre-existing conflict of interest."

Based on Blair's pleading, it appears that Moody indicated that a conflict may arise (or has arisen) in Blair's application for post-conviction relief that is currently pending in the superior court. Blair is represented in this post-conviction relief litigation by another attorney from the Public Defender Agency, Assistant Public Defender David Seid. The post-conviction relief litigation concerns a claim of ineffective assistance of counsel by a former Agency attorney, William Taylor, who represented Blair in his criminal trial. (Taylor is no longer employed by the Agency.) It appears to the Court

that, according to Blair, Moody informed him that Seid may argue in the pending post-conviction relief case that Blair's present appellate attorney, Horowitz, "is himself ineffective."

This Court requires additional information before it can determine if a remand for a hearing on this matter is required. The Court notes that Blair served Horowitz with his pleading, but he did not serve Moody.

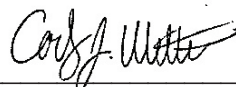
Accordingly, **IT IS ORDERED:**

1. Deputy Public Defender Douglas Moody is directed to file a response to Blair's pleading, and in particular shall address Blair's concerns as to whether his appellate attorney, Michael Horowitz, has a disqualifying conflict of interest. The response shall be made under oath and shall not exceed ten pages. Moody's response is due on or before **October 4, 2021**. The Appellate Clerk's Office shall provide Moody with a copy of the motion Blair filed on September 14, 2021.

2. Attorney Michael Horowitz may file a response to Blair's pleading. If he does so, the response shall be made under oath, shall not exceed ten pages, and shall be filed on or before **October 4, 2021**. If Mr. Horowitz elects not to respond, he shall file notice of that decision on or before **October 4, 2021**.

Entered at the direction of an individual judge.

Clerk of the Appellate Courts



Carly Williams, Deputy Clerk

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September 23, 2021

c: Deputy Public Defender Douglas Moody
Distribution:

Email:
Horowitz, Michael L., Public Defender - Contract
Ringsmuth, Eric